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IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHARLES PETTUS,

Defendants.

Case No. 20-CR-00285-RS

STIPULATED ORDER (1)
 CONTINUING CHANGE OF PLEA
 AND SETTING CONSOLIDATED
 CHANGE OF PLEA AND
 SENTENCING HEARING; (2)
 EXCLUDING TIME FROM THE
 SPEEDY TRIAL ACT
 CALCULATION

Charles Pettus is scheduled to appear before this Court on July 28, 2020, for a change of plea hearing. Mr. Pettus has lodged an application to enter an open guilty plea. The Court's General Order 74-5 advises "after lodging/filing an application to enter an open guilty plea or a plea agreement, guilty pleas and sentencing shall be consolidated for a date after the presentence report has been prepared." The Probation Office has requested 75 days to prepare an updated presentence report, under the local rules. The parties therefore request a consolidated plea and sentencing hearing on October 6, 2020, at 2:30 p.m.

The parties further stipulate and request that, under the Speedy Trial Act, the Court exclude the time from July 28, 2020, to October 6, 2020. Under 18 U.S.C. § 3161(h)(7)(A), the Court may appropriately exclude time "on the basis of his findings that the ends of justice served by taking such

1 action outweigh the best interest of the public and the defendant in a speedy trial.” Although the Speedy
2 Trial Act does not directly address continuances stemming from pandemics, natural disasters, or other
3 emergencies, this Court has discretion to order a continuance and exclude time in such circumstances.
4 *See, e.g., Furlow v. United States*, 644 F.2d 764 (9th Cir. 1981) (finding no Speedy Trial Act violation
5 where the district court granted an ends-of-justice continuance following the eruption of Mt. St. Helens).
6 General Order 72 previously found that the ends of justice served by ordering continuances outweigh the
7 interest of the public and any defendant’s right to a speedy trial pursuant to 18 U.S.C. § 3161(h)(7)(A).
8 General Order 72-5, now in effect, finds that appearances before the district judges may be postponed in
9 light of the pandemic and counsels consolidated plea and sentencing hearings, as noted above. The
10 parties stipulate that exclusion is appropriate in above-captioned case, because of the realities of the
11 pandemic and the safety of Mr. Pettus. A continuance and exclusion of time from July 28, 2020, to
12 October 6, 2020, is therefore appropriate under 18 U.S.C. § 3161(h)(7)(B)(iv), as the ends of justice
13 served by granting of such continuance outweigh the best interest of the public and the defendant in a
14 speedy trial.

15 Thus, the parties stipulate, and the Court finds and holds, as follows:

- 16 1. The change of plea hearing on July 28, 2020, is vacated, and this matter is set for a
17 consolidated change of plea and sentencing hearing on October 6, 2020, at 2:30 p.m.
- 18 2. The time between July 28, 2020, and October 6, 2020, is excluded under the Speedy Trial
19 Act. The ends of justice served by granting the requested continuance outweigh the best interests of the
20 public and defendant in a speedy trial. *See id.* § 3161(h)(7)(A).

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22 IT SO STIPULATED.
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July 24, 2020
Dated

DAVID L. ANDERSON
United States Attorney
Northern District of California

/S

MARI OVERBECK
Assistant United States Attorney

July 24, 2020
Dated


STEVEN G. KALAR
Federal Public Defender
Northern District of California

/S

SOPHIA WHITING
Assistant Federal Public Defender

IT IS SO ORDERED.

July 24, 2020
Date


HON. RICHARD SEEBORG
United States District Judge